

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION**

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|---|---|------------------------------------|
| MICHAEL T. DREHER, |) | |
| <i>Individually and on behalf of a class of</i> |) | |
| <i>similarly situated persons,</i> |) | |
| |) | |
| Plaintiff, |) | |
| v. |) | Civil Action No. 3:11-CV-00624-JAG |
| |) | |
| EXPERIAN INFORMATION |) | |
| SOLUTIONS, INC., |) | |
| CARDWORKS, INC., and |) | |
| CARDWORKS SERVICING, LLC, |) | |
| |) | |
| Defendants. |) | |
| |) | |

MEMORANDUM IN SUPPORT OF DEFENDANT'S MOTION TO SEAL

Pursuant to E.D. Va. Local Rule 5, Defendant Experian Information Solutions, Inc. (“Experian” or “Defendant”) submits this memorandum in support of its Motion to Seal. Defendant respectfully moves the Court for leave to file the following under seal: (1) portions of Defendant’s Memorandum In Support Of Its Motion For Partial Summary Judgment and (2) portions of Exhibit C attached to the Declaration of Joseph W. Clark In Support Of Defendant’s Motion For Partial Summary Judgment.

There are three requirements for sealing court filings: (1) public notice with an opportunity to object; (2) consideration of less dramatic alternatives; and (3) a statement of specific findings in support of a decision to seal and rejecting alternatives to sealing. *See, e.g., Flexible Benefits Council v. Feldman*, No. 1:08-CV-371, 2008 WL 4924711, at *1 (E.D. Va. Nov. 13, 2008) (*citing Ashcraft v. Conoco, Inc.*, 218 F.3d 282, 288 (4th Cir. 2000)).

Here, all requirements are satisfied. This motion provides public notice, and no less drastic alternatives are currently available. The single piece of email correspondence at issue was designated confidential by a co-defendant, CardWorks Servicing, LLC (“CardWorks”). Experian contacted CardWorks’ counsel to request that CardWorks either (1) remove the confidentiality designation on the document or (2) advise as to how the document can be redacted such that CardWorks’ concerns regarding confidentiality are alleviated. Counsel for CardWorks informed the undersigned counsel that both the Federal Deposit Insurance Corporation (“FDIC”) and CardWorks potentially oppose the release of the information contained in the email. Undersigned counsel met and conferred with counsel for the FDIC, but as of the date of this motion, the deadline for Experian to file its Motion for Partial Summary Judgment, Experian has not been able to reach an agreement with the FDIC regarding the treatment of the document at issue. To avoid jeopardizing the confidential treatment that CardWorks expected when it produced confidential documents pursuant to this Court’s Protective Order and to protect the interests of the FDIC, a non-party in this matter, Experian requests that certain portions of Defendant’s Memorandum In Support Of Its Motion For Partial Summary Judgment and certain portions of Exhibit C to the Declaration of Joseph W. Clark be sealed only until such time as an agreement can be reached with CardWorks and the FDIC.

In conclusion, and in satisfaction of the requirements of Local Civil Rule 5, Defendant respectfully asks the Court to enter an order sealing (1) portions of Defendant’s Memorandum In Support Of Its Motion For Partial Summary Judgment and (2) portions of Exhibit C attached to the Declaration of Joseph W. Clark In Support Of Defendant’s Motion For Partial Summary Judgment.

Dated: October 5, 2012

Respectfully submitted,

/s/ Joseph W. Clark
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*Counsel for Defendant Experian Information
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CERTIFICATE OF SERVICE

I hereby certify that on this 5th day of October, 2012, I electronically filed a copy of the foregoing with the Clerk of Court using the CM/ECF system, which will send notification of such filing (NEF) to the following:

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Dated: October 5, 2012

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